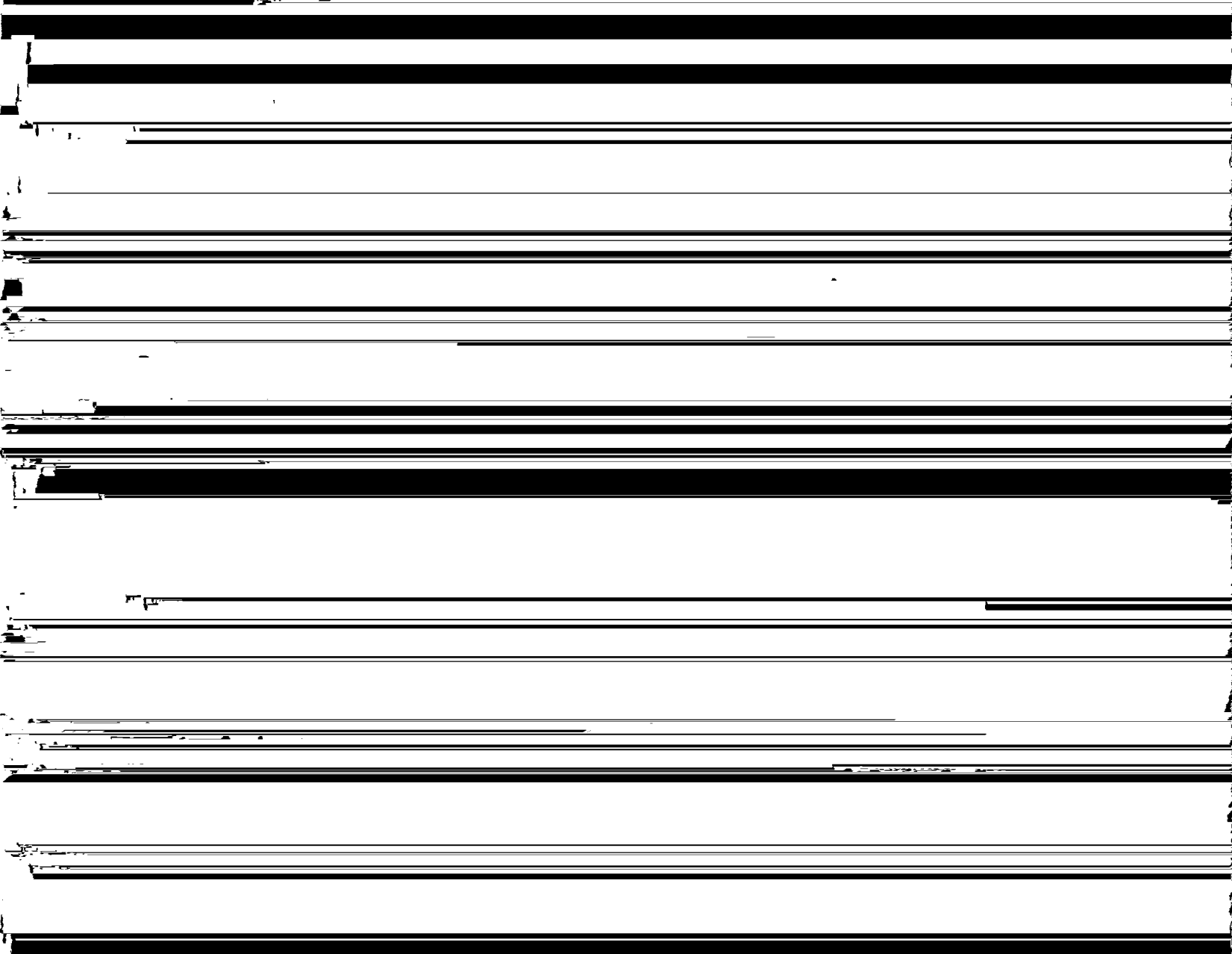




southeastern New Mexico. Leaco's telephone service area has a population density of less than 8 persons per square mile, with its largest population center being Tatum, New Mexico (1990 population: 768). Due to this sparse population, it is common for Leaco to have local subscriber loops up to 60 miles in length. At present, Leaco estimates that it would cost approximately \$20 million to provide broadband services via



US West Communications, Inc. recently announced its intention to deploy an integrated broadband network in its 14-state service area including portions of the State of New Mexico.<sup>2</sup> The proposed facilities would employ a hybrid "fiber-to-the-neighborhood" architecture to deliver digital voice, data, and video to telephone subscribers.<sup>3</sup>

Just like its urban counterpart, US West, Leaco desires to bring these Information Age services and businesses to southeastern New Mexico. However, the length of the loops involved has rendered the installation of fiber optic facilities economically infeasible at present, and during the foreseeable future. However, Leaco's studies of the technical characteristics and service possibilities of LMDS indicate that LMDS may constitute an economically practicable broadband alternative for southeastern New Mexico and other rural areas.

Leaco is presently reviewing the potential of 28 ghz



Commission requested comment on whether LECs "operating as wireless cable companies on LMDS would have anti-competitive implications..."<sup>5</sup>

Leaco supports the comments of the Rock Hill Telephone Company<sup>6</sup> and others that LECs should be eligible for to become LMDS licensees. With the proliferation of several other multichannel video providers (e.g., cable television, wireless cable television and direct broadcast satellite (DBS) services), LECs are on similar footing with other new entrants in the video marketplace in that they do not possess bottleneck market power. Accordingly, LECs should be afforded the opportunity to enter the market.

In addition, the rationale of the existing cable television/telephone company cross-ownership restrictions are primarily based on the concern that LECs have monopoly control over pole and line conduit, and that they could use such power to act in an anti-competitive manner. This rationale is necessarily restricted to the cross-ownership ban on LEC provision of traditional cable television service. The Commission recognized this point when it concluded that its cross-ownership rules were not intended "to broadly foreclose telephone companies from participating in the video marketplace in ways other than as traditional cable operators,

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<sup>5</sup>Notice at n. 12.

<sup>6</sup>Rock Hill Comments at 3-5.

especially where it would serve the public interest."<sup>7</sup>

As Rock Hill points out, LEC provision of LMDS would serve the public interest.<sup>8</sup> LECs typically have the resources and commitment to provide the community with quality communications services. Further, because LEC's are committed to serving the public in their telephone service areas, the threat of speculative applications is reduced.

Moreover, the capabilities of LMDS have not been restricted to just provision of multichannel video services. Leaco's interests lie in the provision of a broadband service that would not only include multichannel video, but voice and data services as well. Any restrictions on LEC eligibility applied in this instance would be overreaching.

In sum, LEC provision of LMDS, to the extent it includes the provision of multichannel video programming, is consistent with explicit Commission policies and does not present anti-competitive implications. Further, LMDS licensees will not be restricted to provision of video services. Therefore, to the extent that a LEC applicant proposes non-video services, the Commission's expressed concerns are inapplicable. Accordingly, the Commission is correct in its tentative conclusion not to adopt LEC eligibility restrictions.

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<sup>7</sup>Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54-63.58, Second Report and Order, Recommendations to Congress, And Second Further Notice of Proposed Rulemaking, 7 FCC Rcd 5781 (1992).

<sup>8</sup>Rock Hill Comments at 3-4.

Service Area


In the Notice, the Commission proposed to license LMDS to service areas defined in terms of the 487 Rand McNally Basic Trading Areas (BTAs).<sup>9</sup> Under the Commission's proposal, a LMDS licensee would be required to provide service to 90 percent of the population in its BTA within three years of authorization.<sup>10</sup>

Leaco supports those commenters that have concluded that the Commission's proposed use of BTAs would establish service areas that are too large and unwieldy to meet the needs of the public for LMDS.<sup>11</sup> Leaco submits that use of such large service areas works in combination with the Commission's proposed service benchmark to: (1) discourage or completely prevent smaller entities from providing LMDS; (2) discourage service to rural areas; and (3) concentrate the public interest benefit that LMDS may provide upon suburban and urban



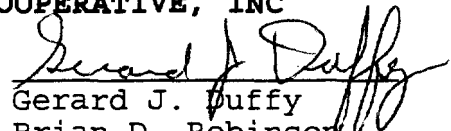
service in its telephone service area, the Commission's proposal would require Leaco to serve prohibitively large portions of the four large (in terms of land area) counties that encompass the BTAs in which its telephone service area is located. Consequently, requiring service to BTA-sized service areas could freeze out smaller carriers, like Leaco, from provision of LMDS entirely.

Moreover, the Commission's proposal also discourages service to rural areas by any communications provider



Localized service areas would also prevent concentration of the LMDS provider on affluent, populous portions of the Commission-proposed BTA service areas.

Respectfully submitted,  
**LEACO RURAL TELEPHONE  
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By:   
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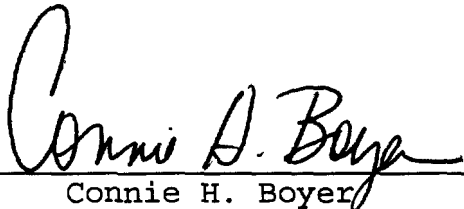
Dated: April 15, 1993

**CERTIFICATE OF SERVICE**

I, Connie H. Boyer, hereby certify that I am an employee in the law offices of Blooston, Mordkofsky, Jackson & Dickens and that on this 15th day of April, 1993, I mailed by first class United States mail, postage prepaid, a copy of the foregoing **"REPLY COMMENTS OF LEACO RURAL TELEPHONE COOPERATIVE, INC."** to the following:

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